

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:

Acceleration of Broadband Deployment
Expanding the Reach and Reducing the Cost of
Broadband Deployment by Improving Policies
Regarding Public Rights of Way and Wireless
Facilities Siting

WC Docket No. 11-59

To: The Commission

REPLY COMMENTS OF THE CITY OF GLENDALE, CALIFORNIA

The City of Glendale, California ("Glendale") respectfully submits these reply comments to the Commission in the above-entitled proceedings ("NOI"). Reference is made to the initial comments submitted by Glendale on July 18, 2011.

It has come to the attention of Glendale that certain comments submitted to the Commission by PCIA-The Wireless Infrastructure Association ("PCIA") contain serious factual errors concerning Glendale that, if left without Glendale's reply, would create an erroneous view of Glendale's policies with regard to the siting of wireless facilities in the city's public rights-of-way. Specifically, in Exhibit B of its comments, PCIA listed Glendale as having "excessive collocation application requirements which unnecessarily delay deployment;" "full discretionary zoning hearings for collocation;" and "consultants identified by the wireless infrastructure industry as obstructionists and problematic." Not only are the comments regarding Glendale inaccurate, they call into question all of the other local agencies which are named in PCIA's allegations

PCIA claims that Glendale has excessive collocation application requirements which unnecessarily delay deployment. The basis for this allegation is that Glendale put a moratorium in place in 2009 as published in a newspaper article, "Lara Cooper, *Supervisors Approve Stricter Cell-Tower Ordinance, But Say No to Moratorium*, Noozhawk, Dec. 1, 2009." Noozhawk is a newspaper circulated in Santa Barbara, California, a town approximately 100 miles from Glendale. The article references the fact that Glendale was among a group of cities that enacted moratoria and that no litigation was pending at the time. There is no reference to excessive

collocation requirements in the Noozhawk article as alleged by PCIA. A copy of the Noozhawk article referenced in PCIA's comments is attached for your reference.

PCIA claims Glendale has caused unnecessary delay by requiring a full discretionary zoning hearing for collocation applications. This is simply untrue. Glendale encourages collocation by providing an expedited preferential review process for each new collocation on an existing tower. Rather than going through the City's planning commission and public hearing process, collocation applications are reviewed through a faster and less costly administrative process.

PCIA claims Glendale retained "consultants identified by the wireless infrastructure industry as obstructionists and problematic." PCIA's claim should be rejected for two reasons. First, PCIA's allegations are vague and unsubstantiated. They fail to identify which consultants are identified, who identified them, and what they may have done to create the so-called barriers against deployment of wireless facilities. Second, Glendale has not retained any such consultants. During the development of its wireless antenna ordinance, referenced in Glendale's comments to the Commission, it hired outside legal and technical consultants to assist in the technical aspects of drafting the ordinance and communicating with the community and the industry. The Glendale ordinance does permit the use of technical consultants on a limited basis to review applications for wireless facilities. However, Glendale has never used an outside consultant to review any wireless antenna application. All of the applications that have been submitted thus far, have been reviewed by in-house staff.

If needed, expert consultation is intended to be a site-specific review of technical aspects of the proposed wireless telecommunications facility and addresses such issues as the applicant's compliance with applicable radio frequency emission standards, height analysis, configuration, the appropriateness of granting any requested exceptions and any other specific technical issues.

It should be recognized that not all local agencies have the budget and the population to support in-house technical staff like Glendale. Many agencies must outsource technical expertise to accomplish necessary functions on a wide variety of disciplines such as soils analysts, geotechnical engineers, environmental experts, and the like. Telecommunications consultants are no different. They provide much needed support to a local agency's staff to assist them in making informed decisions such as whether there is a significant gap in coverage or whether there are structural deficiencies in the proposed facility. The use of such consultants on contract also shortens the time necessary to respond to applications when telecommunications expertise is required.

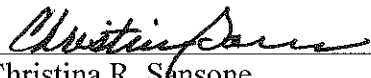
Glendale supports the Commission in its efforts to focus on the real impediments to broadband deployment such as how to get better service quality, affordability, coverage in rural areas and innovation in technology into our local communities. The demonization of local agencies and baseless allegations such as those made by PCIA do not provide useful information to the Commission and are not productive in addressing the real world challenges the Commission faces.

In order to achieve the goals of both the industry and local agencies, Glendale supports the reestablishment of the Intergovernmental Advisory Committee and Right-of-Way Task Force to bring both interests together in a cooperative setting.

We would be happy to respond to any further questions posed by the Commission.

Respectfully submitted,

CITY OF GLENDALE, CALIFORNIA

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Date: 9-29-11

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Exhibit Attached

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Supervisors Approve Stricter Cell-Tower Ordinance, But Say No to Moratorium

http://www.noozhawk.com/noozhawk/article/120109_board_of_supervisors_cell_tower_ordinance/

By Lara Cooper, Noozhawk Staff Writer

20 residents address the board to reiterate concerns about the possible health risks

The issue of cell phone towers — and where to put them — was just as contentious Tuesday as it was when it went before the Santa Barbara County Board of Supervisors last month.

At Tuesday's meeting, the supervisors heard 20 speakers vent about their side of the matter during the public comment period.

The issue centers on cell company NextG and its plans to place 39 "node" — or antenna — sites throughout the South Coast. An antenna a little taller than 2 feet would be placed at the top of an existing utility pole, and the cables needed for the project would be strung along the telephone wire or trenched underground.

None of NextG's nodes has been approved by the county, and supervisors have been planning their next move while listening to the public outcry.

Seventeen of Tuesday's speakers said they favored a moratorium on this type of development, listing everything from health concerns to potential declines in property values.



The Federal Communications Act pre-empts the county from prohibiting the antennas and states that localities can't "regulate the placement, construction and modification of personal wireless service facilities on the basis of environmental effect of radio frequency emissions," assuming they comply with the threshold deemed safe by the Federal Communications Commission.

The county can influence the sites and design of the antennas, although there are limitations on that, too.

If challenged by the county, however, the wireless company would have to prove a gap in service and that the proposed antennas would help close it.

But the FCC issued a declaratory ruling Nov. 18, since the board's last meeting. Local governments are required to act in a reasonable period of time, and just recently the FCC got specific in its ruling. It said that counties would need to process applications in 90 to 150 days, depending on whether another tower is nearby.

It also stated that state or local government can't deny an application solely because the service is available from another provider.

Tuesday's speakers also used the ruling as a chance to reaffirm their stance on perceived health effects from radio frequency emissions, and that local governments can't deny or delay actions on projects based on those perceived risks.

County staff provided some perspective at the hearing and talked about how other communities have dealt with moratoriums. Two years ago, the city of Pasadena enacted a 45-day moratorium for establishing any ground towers in residential areas.

The moratorium was extended twice — a time frame that spanned 22 months. Cell company Omnipoint challenged the city when it denied the company's application for a facility, and the company won the approval in court.

The cities of Glendale and Agoura Hills also enacted moratoriums, but no litigation is pending.

Also under discussion Tuesday was beefing up the county's telecommunications ordinance, which was last revised four years ago. Additional notices to residents living nearby the sites and larger setbacks were among ordinance improvements approved unanimously by the board.

Whether to approve a moratorium did not go as smoothly, however. Supervisor Salud Carbajal, who represents many of the vocal Montecito residents who showed up in force to support a moratorium, supported the move.

"I have a 9-year-old, and if one of these facilities was going in my backyard, I would have the same concerns," he said. "Regrettably, the FCC and federal law undermine some of our authority on the health issues."

But the other four supervisors did not agree, and Carbajal's motion died for lack of a second.

Fear of litigation and what might crop up if the company wins in court was a common concern. Supervisor Joe Centeno said he felt that it was legally unsustainable.

"We're putting the county in a position for a lawsuit. ... I don't see the benefit of it," Supervisor Janet Wolf said. "We're all parents up here ... we care about our children. But what I'm worried about is that by moving forward with a moratorium, we may end up with something worse."

— Noozhawk staff writer Lara Cooper can be reached at lcooper@noozhawk.com .

http://www.noozhawk.com/noozhawk/article/120109_board_of_supervisors_cell_tower_ordinance/